IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 32082 of 2006(T)

AGAINST THE ORDER IN IA. 2845/2006 IN OS.457/2006 of ADDL.M.C.,KOZHIKODE-II

.....

PETITIONER:

M.P.BASHEER, S/O.AHAMMED KUNHI,
PUTHIYARAKKAL ELAMBILASSERY,
KUNNAMANGALAM AMSOM AND DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS:

M.P.ABDURAHIMAN,
S/O.MUHAMMED HAJI, PUTHIYAPURAYIL,
THAZHEKKODE AMSOM AND DESOM, KOZHIKODE TALUK.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 32082 OF 2006

Dated 4th December 2006

JUDGMENT

Petitioner is first defendant in O.S.457/2006 on the file of Munsiff court-II, Kozhikode. Respondent is the plaintiff. Respondent in the suit filed I.A.2845/06, an application under Order XXXIX Rule 1 of Code of Civil Procedure for an order of temporary injunction. Petitioner and other defendants were restrained from doing any quarrying operation or blasting of granite stones in the plaint B schedule property, without obtaining proper and valid license or permission from the statutory authorities as per rules till disposal of I.A.2845/06. According to learned counsel appearing for petitioner, petitioner has already filed Ext.P2 objection and sought vacation of the order of injunction, but learned Munsiff has not disposed I.A.2845/06. This petition is filed under Article 227 of Constitution of India to call for the records in I.A.2845/06 and to set aside the same.

2. Ext.P1 order passed in I.A.2845/06 is an appealable order. Therefore Article 227 of Constitution of India cannot be invoked to set aside that order. Grievance of petitioner is that Munsiff has not disposed I.A.2845/06 on merits. As provided under Order XXXIX Rule 3A, once an ex-parte order of injunction was granted, learned Munsiff is bound to dispose the application within 30 days. Learned Munsiff is directed to dispose I.A.2845/06, as expeditiously as possible and in any event within one month from the date of receipt of copy of this judgment.

Writ petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.